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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/678,183      | 10/02/2000  | Daniel A. Schoch     | M-193               | 4840             |

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EXAMINER

WEST, JEFFREY R

ART UNIT PAPER NUMBER

2857

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action**

Application No.

09/678,183

Applicant(s)

SCHOCH ET AL.

Examiner

Jeffrey R. West

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☒ The proposed drawing correction filed on 24 February 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

10. ☐ Other: \_\_\_\_\_

*Marc S. Hoff*  
MARC S. HOFF  
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The proposed drawing correction is accepted by the Examiner.

The specification correction is accepted by the Examiner.

With respect to the rejection of claims 1-4, 6, 11, 20-24, and 26 under 35 U.S.C. 112, first paragraph, the Examiner maintains while it may be known that different press variables effect the plotted displacement curves, because the equation is not provided, the specification fails to describe to one having ordinary skill in the art how variables of the present invention relate to displacement.

Applicant argues the use of Mickowski (alone or in combination with Shockman) for several reasons. The Examiner maintains that the invention of Mickowski teaches the determining velocity as a function of displacement (column 4, lines 46-50 and 57-66) as well as the relationship between displacement and each increment of time (column 6, lines 26-31 and column 7, lines 11-18). Further it would have been obvious to one having ordinary skill in the art to determine the displacement from a known velocity since the derivative relationship between displacement and velocity is very well known. Further still, since Schockman does disclose plotting slide displacement versus crank angle and Mickowski discloses the similar relationship between velocity and displacement, combining the teachings of Mickowski with that of Schockman would not "render Mickowski unsatisfactory", but instead would have provided a more thorough diagnostic output by displaying a plot of load vs. time in addition to the plots of Mickowski.

Applicant also argues that "Fuji fails to teach or suggest the step of determining the contact point on the actual slide displacement curve, as set forth by the present invention as claimed in claims 5 and 20." The examiner maintains that Fuji is included to teach determining the actual contact points while Smith is included to teach labeling these points on the curve. Applicant also argues that Smith fails to teach, "matching the actual slide displacement cure to the theoretical no load slide displacement curve for the same mechanical press." The Examiner maintains Mickowski teaches comparing the actual and theoretical curves at any individual point of displacement (column 4, lines 46-50 and 57-66).

Applicant argues that Baserman is non-analogous art because the forces being detected are on the order of a few grams instead of tons, and Baserman does not teach calculating "the load at any point on a slide stroke of a mechanical press". The Examiner recognizes that in order to be analogous art, the prior art must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Baserman reference and the instant invention are both concerned with performing accurate load calculations. Further, the invention of Mickowski discloses obtaining, and plotting, the pressure/load data vs. displacement (column 5, lines 55-60); the invention of Baserman is only included to teach using a value of static stiffness when calculating the load values in the Mickowski reference.

Applicant also argues the use of the invention of Biondetti. The Examiner maintains that Biondetti is properly used to teach establishing the computed difference, along the ordinate, between the theoretical no load value and the actual load value of slide displacement as the value of dynamic deflection.

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